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Plaintiff VISTANA CONDOMINIUM  
OWNERS ASSOCIATION, INC.

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

AMERICAN GENERAL LIFE  
INSURANCE COMPANY,

Plaintiff,

v.

VISTANA CONDOMINIUM OWNERS  
ASSOCIATION, PATRICIA ARNOTT AS  
TRUSTEE OF THE NANCY QUON LIFE  
INSURANCE TRUST DATED  
FEBRUARY 10, 2005 and DOES 1-10,

Defendants.

VISTANA CONDOMINIUM OWNERS  
ASSOCIATION, INC.,

Counter-Plaintiff,

v.

AMERICAN LIFE INSURANCE  
COMPANY; PATRICIA ARNOTT, as  
TRUSTEE OF THE OUON LIFE

CASE NO.: 2:12-CV-01324-JAD-NJK

ORDER GRANTING  
**VISTANA CONDOMINIUM  
OWNERS ASSOCIATION, INC.'S  
MOTION TO EXTEND TIME TO  
FILE FOURTH AMENDED  
COUNTERCLAIM**

INSURANCE TRUST; ROES 301 through 310; STEPHANIE LINGLE AKA STEPHANIE A. QUON; JESSICA QUON; QUON PROPERTIES, LLC; and ROES 1 THROUGH 300;

Counter-Defendants.

**VISTANA CONDOMINIUM OWNERS ASSOCIATION, INC'S MOTION TO  
EXTEND TIME TO FILE FOURTH AMENDED COUNTERCLAIM**

COMES NOW Defendant and Counter-Plaintiff VISTANA CONDOMINIUM OWNERS ASSOCIATION, INC. (hereinafter "VISTANA"), by and through its counsel of record, Matthew L. Grode, Esq., Richard E. Haskin, Esq., and Timothy Elson, Esq., of the law firm GIBBS GIDEN LOCHER TURNER SENET & WITTBRODT, LLP, and hereby files its Motion To Extend Time To File Fourth Amended Counterclaim.

**MEMORANDUM OF POINTS AND AUTHORITIES**

VISTANA respectfully requests one additional court day to file its Fourth Amended Counterclaim in this matter due to issues with the filing system that prevented VISTANA from timely complying with this Court's deadline of March 13, 2015. See Doc. 164. The one additional day to file its Fourth Amended Counterclaim will cause no delay or prejudice to any party to this matter.

On March 13, 2015, VISTANA attempted to file its Fourth Amended Counterclaim, but the federal filing system would not accept the filing. See Declaration of Richard Haskin, filed concurrently with the instant Motion. VISTANA attempted to contact the help desk, but did not receive any answer. Id. VISTANA is uncertain of the exact complication, but VISTANA attempted to timely comply with the judicial deadline.

On March 3, 2015, this Court conducted a telephone conference at which time no party objected to VISTANA filing its Fourth Amended Counterclaim. In fact, the parties originally stipulated that VISTANA could file its Fourth Amended

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Counterclaim. Doc. 158. The stipulation was timely submitted to the Court on February 23, 2015, which included a copy of the Fourth Amended Counterclaim. See Doc. 147. There is simply no reason to not allow VISTANA one additional day to file the Fourth Amended Counterclaim, which everyone agreed should be the controlling pleading in this action.

This Court has a strong policy on having matters heard on the merits. In fact, this "Court may *sua sponte* or on motion change, dispense with, or waive any of these Rules if the interests of justice so require." LR IA 3-1. VISTANA submits that good cause and excusable neglect exist to extend the time to allow VISTANA to file the Fourth Amended Counterclaim. VISTANA did not delay in addressing this issue with the Court, but filed the instant Motion on the very next judicial day. At a minimum, the interest of justice weigh in favor of VISTANA having this matter heard on the merits on the Fourth Amended Counterclaim, which was timely submitted to this Court before the deadline to amend the pleadings via a stipulation.

Based on the foregoing, VISTANA respectfully requests one additional judicial day to file its Fourth Amended Counterclaim.

DATED: March 16, 2015

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By: /s/ Timothy P. Elson

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ASSOCIATION, INC.

IT IS SO ORDERED.

DATED: March 17, 2015

  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16th day of March, 2015, the foregoing document entitled: **VISTANA CONDOMINIUM OWNERS ASSOCIATION, INC'S MOTION TO EXTEND TIME TO FILE FOURTH AMENDED COUNTERCLAIM** was served via electronic service through the United States District Court for the District of Nevada's ECF System upon each party in the case who is registered as an electronic case filing user with the Clerk.



An employee of Gibbs, Giden, Locher,  
Turner, Senet & Wittbrodt LLP

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